(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1091. An act to improve the National Park System in the Commonwealth of Virginia

H.R. 1296. An act to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 402) to amend the Alaska Native Claims Settlement Act, and for other purposes.

ENROLLED BILL SIGNED

At 6:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 402. An act to amend the Alaska Native Claims Settlement Act, and for other purposes.

At 9:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1976) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes, and agrees to the conference asked by Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SKEEN, Mr. MYERS of Indiana, Mr. WALSH, Mr. DICKEY, Mr. KINGSTON, Mr. RIGGS, Mr. NETHERCUTT, Mr. LIVINGSTON, Mr. DURBIN, Ms. KAPTUR, Mr. THORNTON, Mrs. LOWEY, and Mr. OBEY as the managers of the conference on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1091. An act to improve the National Park System in the Commonwealth of Virginia; to the Committee on Energy and Natural Resources.

H.R. 1296. An act to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1452. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, the report on the program recommendations of the Karachi Accountability Review Board; to the Committee on Foreign Relations.

EC–1453. A communication from the Acting Administrator of the Consolidated Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report entitled, ''Farmer Programs Loan Assistance to Socially Disadvantaged Applicants''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1454. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to authorize the Secretary of the Treasury to establish a flexible procedure for facilitating timely payment on claims on account of Government checks; to the Committee on Appropriations.

EC–1455. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. FORD:

S. 1262. A bill to provide for the establishment of certain limitations on advertisements relating to, and the sale of, tobacco products, and to provide for the increased enforcement of laws relating to underage tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD (for himself, Mr. PRESSLER, Mr. THURMOND, and Mr. INOUYE):

S. 1263. A bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of payment under part B of the medicare program relating to anesthesia services furnished by certified registered nurse anesthetists, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE:

S. 1264. A bill to provide for certain benefits of the Missouri River basin Pick-Sloan project to the Crow Creek Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRESSLER:

S. Res. 175. A resolution expressing the sense of the Senate regarding the recent elections in Hong Kong; to the Committee on Foreign Relations.

By Mr. MURKOWSKI:

S. Con. Res. 27. A concurrent resolution to correct the enrollment of H.R. 422; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FORD:

S. 1262. A bill to provide for the establishment of certain limitations on advertisements relating to, and the sale of, tobacco products, and to provide for the increased enforcement of laws relating to underage tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TOBACCO PRODUCTS CONTROL ACT OF 1995

Mr. FORD. Madam President, I want to talk just a bit about personal freedoms. That notion is so deeply embedded in how Americans define themselves that we fought wars to defend it, marched down every Main Street in America to guard it, and turned politicians out at the polls to protect it.

That dedication to personal freedom was at the very core of how our Founding Fathers defined a nation, and it has endured the test of time.

Thomas Jefferson said that the ultimate powers of society belong to the people themselves. And, when Government is concerned that people might not be knowledgeable enough to exercise their control in a healthy direction, he wrote, ''The remedy is not to take it from them, but to inform.''

He understood that Government has a mission to inform, but not to dictate, because when Government passes over that line of guidance to coercion, every American's guarantee of personal freedom is irrevocably damaged.

I want to say this in the most forceful way possible, Madam President, that no one—no one—supports teen smoking. I am introducing legislation today directed at reducing the number of teenaged smokers in this country. But make no mistake, this legislation is equally driven by the need to prevent Government from regulating the legal choice of adults—of adults—in this country. And it does so by keeping the FDA out of the business of regulating tobacco.

It is no secret, Madam President, that the FDA would like to ban tobacco under the guise of regulating teen tobacco use. And that is why when many people in my State hear the phrase ''Big Brother,'' they see the face of the FDA's David Kessler.

The other day I heard a radio interview of some stock car racing fans. They had some pretty harsh words for Washington and for the proposed regulations that could have a devastating effect on the sport that they enjoy so much. They used words like ''misguided,'' and phrases like ''Big Brother intruding.''

You see, Madam President, they could not understand how the Government could prevent them from buying a T-shirt or a cap with their favorite race driver and sponsor on it. Plenty of those fans are parents who have no desire to see their children smoking cigarettes and who support commonsense efforts to reduce teen smoking. But

something is clearly wrong when a regulation aimed at young people jeopardizes a sport where fewer than 3 percent in attendance are under the age of 18.

We are not just talking about sports fans or patrons of major art shows and performances. We are talking about the truck driver who chooses to wear a Skoal cap. We are talking about adults, whether they work on Wall Street, under the hood of a car, at the bank, or checking groceries, being able to get a pack of cigarettes at a local bar's vending machine, a place where no minor has any business being in the first place.

I am introducing this legislation today because I am fiercely opposed to Government interference into the legal decisions of adults in this country. I believe this is an issue we could have solved and still can without FDA intervention by working with industry and the administration. And in fact, many of the larger companies had already made substantial efforts in that direction. But I believe nothing less than complete prohibition is good enough for the regulators over at the FDA and the antitobacco zealots.

In fact, I am so concerned about the FDA's intentions to limit adults' rights with regard to tobacco that I believe some legislative solution is imperative to prevent further intrusion into the private decisions of adults in this country. That is why my legislation in no uncertain terms removes any FDA involvement in the regulation of tobacco.

But as I said on the day those regulations were announced, no one is here to protect peddling tobacco to minors. No one. And I am here today to follow up with serious, enforceable measures on advertising and access to stop underaged tobacco use.

You also find in this legislation retail and marketing restrictions which we incorporate into substance abuse and Mental Health Services Administration rules and State laws already on the books.

Under my legislation, we ban outdoor advertising of cigarettes and smokeless tobacco products within 500 feet of schools. We ban advertising of cigarettes and smokeless tobacco products in publications with any significant youth subscriptionship. We ban paid tobacco advertisements or props in movies. We ban cigarettes or smokeless tobacco advertising in videos, video game machines or family amusement centers.

We require States to restrict vending machine sales of cigarettes or smokeless tobacco products to supervised locations—bars, private clubs, or places of employment like factories and warehouses. And we require States to limit free sampling of cigarettes and smokeless tobacco products and use of coupons to locations where youth access is denied and where proof-of-age requirements have been met.

Instead of creating a whole new bureaucracy and turning jurisdiction over to the FDA, this legislation maintains the enforcement scheme of current SAMHSA law, extending it to tobacco sales and marketing restrictions and doubling—I underscore doubling—applicable penalties.

These are serious, enforceable measures to combat teenage smoking, but they do not interfere with the legal, private decisions of adults nor do they trample on freedom of speech that the first amendment protects. The same cannot be said for the FDA regulations, which have already sent advertising and tobacco industry lawyers scrambling to the courts setting up lengthy legal challenges where the fight will go on for years and years and years.

I have been told by those familiar with constitutional law that recent appellate court decisions and legal reviews have supported restrictions on the location of advertising but not on the content of the advertising. My bill responds to legal precedent, where FDA regulators have tried to circumvent all legal precedent, attempting to control an advertisement's content affecting not just a teenage publication, but a truck driver's baseball cap or a banker's financial magazine.

Nor does my legislation put an illegal tax on the industry forcing them to use millions and millions of their own dollars to tell the public not to use their product. Can you imagine that? They are going to ask the industry to put up millions to say, ''Stop buying our product.'' Any other industry would go berserk. There is absolutely no other industry in this country that has been ordered—ordered, Madam President—to pay millions to put themselves out of business. Yet the FDA regulations attempt to raise taxes without any act of Congress.

We can address the issues of teen smoking today without new taxes or constitutionally suspect restrictions on advertising rather than waiting years and years and years for the courts to finally settle the matter. When it comes right down to it, whether a teenager gets a pack of cigarettes or not in large part depends on whether an individual store clerk decides to sell it to them. It is already illegal in every State in the this country for that clerk to do so.

But because too many store clerks do not feel pressured to enforce this law, we clearly need to change the current environment and leave no doubt in anyone's mind that it is in their best interest not to sell that pack of cigarettes to a minor. We do that through much tougher penalties and by ensuring that States have the enforcement resources they need to back up these laws.

My legislation also works to reduce the chances that a teenager will ever walk into that store looking to buy a pack of cigarettes in the first place. I think that is what all of us want, from the administration to my tobacco farmers to the American public. The President is clearly committed to making serious inroads on the issue of teenage smoking. And in his press conference before the August recess he stated his backing of the self-supporting tobacco program and of adults' rights to make their own decision with regard to smoking. Unfortunately, overzealous regulators under the direction of David Kessler have done the President and the country a disservice by going way too far beyond simply protecting our young people, and, instead, their regulations infringe on numerous constitutional rights, invade the privacy of average adult Americans, and take the first step on a short road to prohibition.

These overzealous regulators include a clause that essentially gives the FDA total control over tobacco's fate if there is not a 50 percent reduction in teenage tobacco use from 1993 levels—not 1995, but they go back to 1993—within 7 years. In fact, the percentage of teenage tobacco use is already well below the level it was 15 to 20 years ago. While we are willing to discuss additional, reasonable steps, these FDA regulations are nothing more than a guarantee that they are going to be coming back and attempt to expand their jurisdiction even further.

I took the President at his word when he said that he prefers a legislative solution. In this legislation, we have taken one of the toughest State laws on the books regarding advertising, and one of the toughest State laws on the books regarding vending machine sales and samples as the basis for a serious and enforceable national policy on teenage smoking.

The antismoking advocates talk forcefully about the numbers of teenagers who begin smoking every day. In citing those figures these advocates would be nothing short of negligent if they reject my legislation and allow this issue to be delayed indefinitely by a court fight. They will clearly be choosing a delay over compromise, self-promotion over certain progress.

There is no doubt that this legislation is about compromise. But make no mistake, it does not dodge the responsibility of ending teen tobacco use. I think this legislation represents a serious effort at meeting the President's goals on teenage smoking sooner, rather than later. Equally important, by leaving the FDA out of this process, my legislation will not set a course for tobacco that leads to prohibition.

Madam President, I believe this proposal establishes a framework which, taken in its entirety, is as tough as the toughest State laws on teenage tobacco use in existence today.

I challenge critics to show me a better approach—one equally strong and one equally reasonable. They are guided by common sense, both in the removal of the FDA from the process and in the expansion of laws already on the books. You will not find any new taxes or new bureaucracy, just strong, enforceable measures to end teenage

smoking and teenage tobacco use today.

Madam President, I send a copy of my bill to the desk and ask that it be appropriately referred, and I ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be received and appropriately referred.

S. 1262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tobacco Products Control Act of 1995''.

SEC. 2. AMENDMENT TO FEDERAL CIGARETTE LABELING AND ADVERTISING ACT.

The Federal Cigarette Labeling and Advertising Act is amended by inserting after section 6 (15 U.S.C. sec. 1335) the following new section:

''ADDITIONAL ADVERTISING RESTRICTIONS

''SEC. 7A. (a)(1) It shall be unlawful to advertise cigarettes on any outdoor billboard that is located within 500 feet of any public or private elementary or secondary school.

''(2) Paragraph (1) shall not apply to any advertisement—

''(A) on any outdoor billboard that is located adjacent to an interstate highway that is directed away from, and not visible from, such elementary or secondary schools or school grounds; or

''(B) that is erected or maintained at street level and affixed to business establishments selling tobacco products at retail.

''(b) It shall be unlawful to advertise cigarettes in a newspaper, magazine, periodical or other publication if the subscribers of such publication who are under the age of 18 years constitute more than 15 percent of the total readership of such publication. The Federal Trade Commission shall annually publish a list of the publications that are subject to this subsection.

''(c) No payment shall be made by any cigarette manufacturer or any agent thereof for the placement of any cigarette, cigarette package, or cigarette advertisement as a prop in any motion picture produced for viewing by the general public.

''(d) No cigarette brand name or logo shall be placed in a video or on a video game machine, and no brand name or logo may be placed on or within the premises of family amusement centers.

''(e) As used in this section—

''(1) the term 'family amusement center' means an enterprise offering amusement or entertainment to the public through the use of one or more amusement rides or attractions;

''(2) the term 'amusement ride or attraction' means—

''(A) any mechanized device or combination of devices that carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or

''(B) any building or structure around, over, or through which individuals may walk, climb, slide, jump or move that provides such individuals with amusement, pleasure, thrills, or excitement;

except that such term does not include coin-operated amusement devices that carry no more than 2 individuals, devices regulated by the Federal Aviation Administration, the Federal Railroad Administration (or State railroad administrations), or vessels under the jurisdiction of the Coast Guard (or State division of the water patrol), tractor pulls, auto or motorcycle events, horse shows, rodeos, or other animal shows, games and concessions, nonmechanical playground equipment, or any other devices or structures designated by the Secretary of Health and Human Services; and

''(3) the term 'video game' means any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or a monitor, that interacts with the user of the device.''.

SEC. 3. AMENDMENT TO COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986.

The Comprehensive Smokeless Tobacco Health Education Act of 1986 is amended by inserting after section 3 (15 U.S.C. 4402 et seq.) the following new section:

''ADVERTISING RESTRICTIONS

''SEC. 3A. (a) BILLBOARDS.—

''(1) IN GENERAL.—It shall be unlawful to advertise a smokeless tobacco product on any outdoor billboard that is located within 500 feet of any public or private elementary or secondary school.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any advertisement—

''(A) on any outdoor billboard that is located adjacent to an interstate highway that is directed away from, and not visible from, such elementary or secondary schools or school grounds; and

''(B) that is erected or maintained at street level and affixed to business establishments selling tobacco products at retail.

''(b) PERIODICALS.—It shall be unlawful to advertise any smokeless tobacco product in a newspaper, magazine, periodical or other publication if the subscribers of such publication who are under the age of 18 years constitute more than 15 percent of the total readership of such publication. The Federal Trade Commission shall annually publish a list of the publications that are subject to this subsection.

''(c) MOTION PICTURES.—No payment shall be made by any smokeless tobacco manufacturer or any agent thereof for the placement of any smokeless tobacco product, smokeless tobacco package, or smokeless tobacco advertisement as a prop in any motion picture produced for viewing by the general public.

''(d) VIDEO GAMES.—No smokeless tobacco product brand name or logo shall be placed in a video or on a video game machine, and no brand name or logo may be placed on or within the premises of a family amusement center.

''(e) DEFINITIONS.—As used in this section—

''(1) the term 'family amusement center' means an enterprise offering amusement or entertainment to the public through the use of one or more amusement rides or attractions;

''(2) the term 'amusement ride or attraction' means—

''(A) any mechanized device or combination of devices that carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or

''(B) any building or structure around, over, or through which individuals may walk, climb, slide, jump or move that provides such individuals with amusement, pleasure, thrills, or excitement;

except that such term does not include coin-operated amusement devices that carry no more than 2 individuals, devices regulated by the Federal Aviation Administration, the Federal Railroad Administration (or State railroad administrations), or vessels under the jurisdiction of the Coast Guard (or State division of the water patrol), tractor pulls, auto or motorcycle events, horse shows, rodeos, or other animal shows, games and concessions, nonmechanical playground equipment, or any other devices or structures designated by the Secretary of Health and Human Services; and

''(3) the term 'video game' means any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube, or is designed to be used with a television set or a monitor, that interacts with the user of the device.''.

SEC. 4. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 1926 of the Public Health Service Act (42 U.S.C. sec. 300x-26) is amended—

(1) in subsection (a)(1), to read as follows:

''(1) IN GENERAL.—Subject to paragraph (2), for fiscal year 1997 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that—

''(A) it is unlawful for any manufacturer, retailer, or distributor of cigarettes or smokeless tobacco products to sell or distribute any such product to any individual under the age of 18;

''(B) no person, firm, partnership, company, or corporation shall operate a vending machine which dispenses cigarettes or smokeless tobacco products unless such vending machine is in a location that is in plain view and under the direct supervision and control of the individual in charge of the location or his or her designated agent or employee;

''(C) the restrictions described in subparagraph (B) shall not apply in the case of a vending machine that is located—

''(i) at a private club;

''(ii) at a bar or bar area of a food service establishment;

''(iii) at a factory, warehouse, tobacco business, or any other place of employment which has an insignificant portion of its regular workforce comprised of individuals under the age of 18 years and only if such machines are located in an area that is not accessible to the general public; or

''(iv) in such other location or made available in another manner that is expressly permitted under applicable State law; and

''(D) it is unlawful for any person engaged in the selling or distribution of cigarettes or smokeless tobacco products for commercial purposes to distribute without charge any cigarettes or smokeless tobacco products, or to distribute coupons which are redeemable for cigarettes or smokeless tobacco products, except that this subparagraph shall not apply in the case of distribution—

''(i) through coupons contained in publications for which advertising is not restricted under section 7A of the Federal Cigarette Labeling and Advertising Act, coupons obtained through the purchase of cigarettes or smokeless tobacco products, or coupons sent through the mail;

''(ii) where individuals can demonstrate, through a photographic identification card, that the individual is at least 18 years of age;

''(iii) in locations that can be separately segregated to deny access to individuals under the age of 18; or

''(iv) through such other manners or at other locations that are expressly permitted under applicable State law.'';

(2) in subsection (a)(2)—

(A) by striking ''1993'' and inserting ''1997'';

(B) by striking ''1994'' and inserting ''1998''; and

(C) by striking ''1995'' and inserting ''1999'';

(3) in subsection (c)—

(A) in paragraph (1), by striking ''10 percent'' and inserting ''20 percent'';

(B) in paragraph (2), by striking ''20 percent'' and inserting ''40 percent'';

(C) in paragraph (3), by striking ''30 percent'' and inserting ''60 percent''; and

(D) in paragraph (4), by striking ''40 percent'' and inserting ''80 percent'';

(4) in subsection (d)—

(A) in paragraph (1), by striking ''1995'' and inserting ''1999''; and

(B) in paragraph (1), by striking ''1994'' and inserting ''1998''; and

(5) by adding at the end thereof the following new subsections:

''(e) ENFORCEMENT.—Any amounts made available to a State through a grant under section 1921 may be used to enforce the laws described in subsection (a).

''(f) DEFINITIONS.—As used in subsection (a)(1), the term 'private club' means an organization with no more than an insignificant portion of its membership comprised of individuals under the age of 18 years that regularly receives dues or payments from its members for the use of space, facilities and services.''.

SEC. 5. AMENDMENT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

''SEC. 906. PROHIBITION ON REGULATION OF TOBACCO PRODUCTS.

''Nothing in this Act or any other Act shall provide the Food and Drug Administration with any authority to regulate in any manner tobacco or tobacco products.''.

By Mr. CONRAD (for himself, Mr. PRESSLER, Mr. THURMOND, and Mr. INOUYE):

S. 1263. A bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of payment under part B of the Medicare Program relating to anesthesia services furnished by certified registered nurse anesthetists, and for other purposes, to the Committee on Finance.

THE MEDICARE ANESTHESIA SERVICES REFORM ACT

● Mr. CONRAD. Mr. President, today I, along with Senators PRESSLER, THURMOND, and INOUYE, introduce the Medicare Anesthesia Services Reform Act.

Whether the issue is Medicare reform or overall health care reform, our Nation needs to identify and develop efficient, cost-effective methods of delivering health care. But as we seek to cut health care costs, we must be careful to protect the quality of the health care that patients receive. One way to both provide quality care and better utilize our Nation's health care resources is to more appropriately use the services of Certified Registered Nurse Anesthetists—CRNA's.

The Medicare Anesthesia Services Reform Act addresses two important issues affecting the regulation of anesthesia practice as it affects CRNA's. The first defers to State laws in determining whether or not nurse anesthetists must be supervised by a physician. And the second provision provides parity of payment when two anesthesia providers are involved in a single Medicare case. The Act helps CRNA's maximize the use of their skills to provide quality health care to patients.

Nurse anesthetists administer more than 65 percent of the 26 million anesthetics given to patients each year in the United States. They are the sole anesthesia providers in 85 percent of rural hospitals, including all but a handful of counties in North Dakota. CRNA's play an integral role in providing rural medical facilities with obstetrical, surgical, and trauma stabilization capabilities. CRNA's perform the same anesthesia delivery functions as anesthesiologists and work in every setting in which anesthesia is delivered—traditional hospital suites, obstetrical delivery rooms, dentists offices, HMO's ambulatory surgical centers, Veterans Administration facilities, and others.

The first provision in the bill requires the Health Care Financing Administration to defer to State law when determining whether to condition Medicare reimbursement to CRNA's on physician supervision. Medicare's regulations require physician supervision of CRNA's as a condition for hospitals or ambulatory surgical centers to receive Medicare reimbursement, despite many State laws that allow nurse anesthetists to practice without such supervision. In fact, most States do not require physician supervision or direction of nurse anesthetists in the States' nurse practice acts, board of nursing rules and regulations, medical practice acts, or their generic equivalents.

The Federal supervision requirement creates several problems for CRNA's. First, some surgeons have been dissuaded from working with CRNA's, in the face of arguments that the physicians may be subjecting themselves to liability for engaging in supervision. But the truth is, the attending physician is no more legally liable for the CRNA's actions than he or she is for the acts of an anesthesiologist. Second, the Federal restriction is anti-competitive, acting as a disincentive for CRNA's to be utilized. Finally, the restriction creates an inaccurate perception among some surgeons that they have an obligation to direct or control the substantive course of the anesthetic process, even though there is no such obligation.

By eliminating this prescriptive Federal regulation, we can better maximize the use of nurse anesthetists and eliminate the confusion surrounding CRNA supervision. At a time when the Federal Government is deferring to State judgment on a whole host of issues, it seems completely consistent to let States decide how best to use nurse anesthetists, particularly in light of CRNA's long track record of success.

CRNA's have been around for a century. They have been the principal anesthesia providers in combat areas in every war the United States has been engaged in since World War I. CRNA's have received medals and accolades for their dedication, commitment, and competence. And recent studies indicate that better utilization of CRNA's could save the Federal Government as much as $1 billion per year by the year 2010. Clearly, it make sense for the Federal Government to defer to States on an issue that could very well save significant Federal expenses over time.

The second proposal included in the Medicare Anesthesia Services Reform Act applies to fairness in reimbursement to CRNA's and anesthesiologists. Under Medicare's current regulations, if an anesthesiologist and a CRNA work together on one case and Medicare later decides that the use of two anesthesia providers was not medically necessary, neither the hospital nor the CRNA gets paid. Consequently, there is an economic disincentive for hospitals to employ nurse anesthetists, even though they provide such cost effective services.

Obviously, Medicare should not pay for services that are not medically necessary. And our bill would not require Medicare to do so. Rather, it simply requires that anesthesiologists and CRNA's or the hospitals that employ them split the fee equally. If someone works on a Medicare case, he or she should get paid for it.

The problem CRNA's confront is the poor definition of what constitutes ''medical necessity.'' Medical necessity is interpreted on a case-by-case basis, making it easy for Medicare carriers to deny a claim for payment to a CRNA who cannot prove medical necessity. If a claim is denied, then only the anesthesiologist gets paid, even though both the anesthesiologist and the CRNA did the work. That is just not fair.

Last year, I introduced legislation that would have required Medicare to reimburse CRNA's and anesthesiologists based on their contribution to the case. Under that proposal, if a CRNA did more of the work, he or she might get 60 or 70 percent of the payment compared with 30 or 40 percent for the anesthesiologist. If the anesthesiologist did more of the work, he or she would receive a greater percentage of the payment.

Some viewed the provision I proposed last year as too difficult to implement. In addition, during health care reform, I worked with the American Association of Nurse Anesthetists and the American Society of Anesthesiologists to develop a compromise that included the 50–50 split that has been incorporated into this bill. Given the negotiations that occurred last year, I believe it is best to include the 50–50 split provision, rather than the provision that I initially proposed.

Mr. President, this is sensible legislation. It is fair to both CRNA's and anesthesiologists, alike. And it eliminates some significant problems that are creating difficulty for nurse anesthetists and the hospitals that employ them.

Our proposal replaces outdated Medicare regulations and lets hospitals make their individual anesthesia staffing decisions based upon their own needs. It also gives more flexibility to

the States. I hope my colleagues will support it.●

By Mr. DASCHLE:

S. 1264. A bill to provide for certain benefits of the Missouri River basin Pick-Sloan project to the Crow Creek Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

THE CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND ACT OF 1995

Mr. DASCHLE. Mr. President, today I introduce the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1995. This bill will provide for the development of certain tribal infrastructure projects funded by a trust fund set up for the Crow Creek Tribe within the Department of the Treasury. The trust fund would be capitalized from a percentage of hydropower revenues and would be capped at $27.5 million. The tribe would then receive the interest from the fund to be used according to a development plan prepared in conjunction with the Bureau of Indian Affairs and the Indian Health Service.

The Flood Control Act of 1944 created five massive earthen dams on the Missouri River. This public works project known as the Pick-Sloan Plan provides flood control, irrigation, and hydropower. Four of the Pick-Sloan dams are located in South Dakota.

The impact of the Pick-Sloan plan on the Crow Creek Sioux Tribe has been devastating. The Big Bend and Fort Randall dams created losses to the Crow Creek Tribe for which they have not been adequately compensated. Over 15,000 acres of the tribe's most fertile and productive land, the Missouri River wooded bottom lands, were inundated as a result of the Fort Randall and Big Bend components of the Pick-Sloan project.

By and through the Big Bend Act of 1962, Congress directed the U.S. Army Corps of Engineers and the Department of the Interior to take certain actions to alleviate the problems caused by the dislocation of communities and inundation of tribal resources. These directives were either carried out inadequately or not carried out at all.

Congress established precedent for this legislation in 1992 by the passage of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act which I cosponsored. At that time, Congress determined that the U.S. Army Corps of Engineers failed to provide adequate compensation to the tribes when their land was acquired for the Pick-Sloan projects. There is little controversy on finding that the tribes bore an inordinate share of the cost of implementing the Pick-Sloan program. The Secretary of the Interior established the Joint Tribal Advisory Committee to resolve the inequities and find ways to finance the compensation of tribal claims. As a result, the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act set up a recovery fund financed entirely from a percentage of Pick-Sloan power revenues.

The Crow Creek Sioux Tribe Infrastructure Development Fund Act of 1995 will enable the Crow Creek Tribe to address and improve their infrastructure and will provide the needed resources for further economic development of the Crow Creek Indian Reservation.

This legislation has broad support in South Dakota. Gov. Bill Janklow strongly endorses this proposal to develop the infrastructure at the Crow Creek Indian Reservation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD and a letter from Gov. Bill Janklow.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1995''.

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the Congress approved the Missouri River basin Pick-Sloan project by passing the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.)—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Fort Randall and Big Bend projects are major components of the Pick-Sloan project, and contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(3) the Fort Randall and Big Bend projects overlie the western boundary of the Crow Creek Indian Reservation, having inundated the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Tribe and the homeland of the members of the Tribe;

(4) Public Law 85–916 (72 Stat. 1766 et seq.) authorized the acquisition of 9,418 acres of Indian land on the Crow Creek Indian Reservation for the Fort Randall project and Public Law 87–735 (76 Stat. 704 et seq.) authorized the acquisition of 6,179 acres of Indian land on Crow Creek for the Big Bend project;

(5) Public Law 87–735 (76 Stat. 704 et seq.) provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Crow Creek Indian Reservation, by directing the Secretary of the Army to—

(A) replace, relocate, or reconstruct—

(i) any existing essential governmental and agency facilities on the reservation, including schools, hospitals, offices of the Public Health Service and the Bureau of Indian Affairs, service buildings, and employee quarters; and

(ii) roads, bridges, and incidental matters or facilities in connection with such facilities;

(B) provide for a townsite adequate for 50 homes, including streets and utilities (including water, sewage, and electricity), taking into account the reasonable future growth of the townsite; and

(C) provide for a community center containing space and facilities for community gatherings, tribal offices, tribal council chamber, offices of the Bureau of Indian Affairs, offices and quarters of the Public Health Service, and a combination gymnasium and auditorium;

(6) the Secretary of the Army and the Secretary of the Interior have failed to meet the requirements under Public Law 87–735 (76 Stat. 704 et seq.) with respect to the mitigation of the effects of the Fort Randall and Big Bend projects on the Crow Creek Indian Reservation;

(7) although the national economy has benefited from the Fort Randall and Big Bend projects, the economy on the Crow Creek Indian Reservation remains underdeveloped, in part as a consequence of the failure of the Federal Government to fulfill the obligations of the Federal Government under the laws referred to in paragraph (4);

(8) the economic and social development and cultural preservation of the Crow Creek Sioux Tribe will be enhanced by increased tribal participation in the benefits of the Fort Randall and Big Bend components of the Pick-Sloan project; and

(9) the Crow Creek Sioux Tribe is entitled to additional benefits of the Missouri River basin Pick-Sloan project, including hydropower revenues and infrastructure development.

SEC. 3. DEFINITIONS.

For the purposes of this Act, unless the context implies otherwise, the following definitions shall apply:

(1) FUND.—The term ''Fund'' means the Crow Creek Sioux Tribe Infrastructure Development Trust Fund established under section 4(a).

(2) PLAN.—The term ''plan'' means the plan for socioeconomic recovery and cultural preservation prepared under section 5.

(3) PROGRAMS.—The term ''Programs'' means the integrated programs of the Eastern Division of the Missouri River basin Pick-Sloan program, administered by the Western Area Power Administration, as determined by the Secretary.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) TRIBE.—The term ''Tribe'' means the Crow Creek Sioux Tribe.

SEC. 4. ESTABLISHMENT OF CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.

(a) CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the ''Crow Creek Sioux Tribe Infrastructure Development Trust Fund''.

(b) FUNDING.—Beginning with fiscal year 1997, and for each fiscal year thereafter, until such time as the aggregate of the amounts deposited in the Fund is equal to $27,500,000, the Secretary of the Treasury shall deposit into the Fund an amount equal to 25 percent of the receipts from the deposits to the Treasury of the United States for the preceding fiscal year from the Programs.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) ESTABLISHMENT OF ACCOUNT AND TRANSFER OF INTEREST.—The Secretary of the Treasury shall, in accordance with this subsection, transfer any interest that accrues on amounts deposited under subsection (b) into a separate account established by the Secretary of the Treasury in the Treasury of the United States.

(2) PAYMENTS.—

(A) IN GENERAL.—Beginning with the fiscal year immediately following the fiscal year

during which the aggregate of the amounts deposited in the Fund is equal to the amount specified in subsection (b)(2), and for each fiscal year thereafter, all amounts transferred under paragraph (1) shall be available, without fiscal year limitation, to the Secretary of the Interior for use in accordance with subparagraph (C).

(B) WITHDRAWAL AND TRANSFER OF FUNDS.—For each fiscal year specified in subparagraph (A), the Secretary of the Treasury shall withdraw amounts from the account established under such paragraph and transfer such amounts to the Secretary of the Interior for use in accordance with subparagraph (C). The Secretary of the Treasury may only withdraw funds from the account for the purpose specified in this paragraph.

(C) PAYMENTS TO TRIBE.—The Secretary of the Interior shall use the amounts transferred to the Secretary under subparagraph (B) only for the purpose of making payments to the Tribe.

(D) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (C) only for carrying out projects and programs pursuant to the plan prepared under section 5.

(3) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

(e) TRANSFERS AND WITHDRAWALS.—

(1) AMOUNTS DEPOSITED IN THE FUND.—Except as provided in subsection (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(2) AMOUNTS TRANSFERRED TO ACCOUNT.—Except as provided in subsection (d)(2), the Secretary of the Treasury may not transfer or withdraw any amounts transferred to the account established under subsection (d)(1).

SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CULTURAL PRESERVATION.

(a) PLAN.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, in cooperation with the Secretary of Health and Human Services, acting through the Indian Health Service, and the Crow Creek Tribal Council, shall prepare a plan for the use of payments made to the Tribe under section 4(d)(2).

(2) REQUIREMENTS FOR PLAN COMPONENTS.—The plan shall, with respect to each component of the plan—

(A) identify the costs and benefits of that component; and

(B) provide plans for that component.

(3) APPROVAL OF CROW CREEK TRIBAL COUNCIL.—The plan shall be subject to the approval of the Crow Creek Tribal Council.

(4) SUBMITTAL TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit the plan to Congress.

(b) CONTENT OF PLAN.—The plan shall include the following programs and components:

(1) EDUCATIONAL FACILITY.—The plan shall provide for an educational facility to be located on the Crow Creek Indian Reservation.

(2) COMPREHENSIVE INPATIENT AND OUTPATIENT HEALTH CARE FACILITY.—The plan shall provide for a comprehensive inpatient and outpatient health care facility to provide essential services that the Secretary, in consultation with the individuals and entities referred to in subsection (a)(1), determines to be—

(A) needed; and

(B) unavailable through existing facilities of the Indian Health Service on the Crow Creek Indian Reservation at the time of the determination.

(3) WATER SYSTEM.—The plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Crow Creek Indian Reservation.

(4) IRRIGATION FACILITIES.—The plan shall provide for irrigation facilities for not less than 1,792 acres.

(5) RECREATIONAL FACILITIES.—The plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam in South Dakota.

(6) OTHER PROJECTS AND PROGRAMS.—The plan shall provide for such other projects and programs for the educational, social welfare, economic development, and cultural preservation of the Tribe as the Secretary, in consultation with the individuals and entities referred to in subsection (a)(1), considers to be appropriate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund established under section 4.

SEC. 7. EFFECT OF PAYMENTS TO TRIBE.

(a) IN GENERAL.—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

(1) POWER RATES.—No payment made pursuant to this Act shall affect Missouri River basin Pick-Sloan power rates.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed as diminishing or affecting—

(A) any right of the Tribe that is not otherwise addressed in this Act; or

(B) any treaty obligation of the United States.

STATE OF SOUTH DAKOTA,
EXECUTIVE OFFICE, STATE CAPITOL,
Pierre, SD, June 22, 1995.

Hon. DUANE BIG EAGLE,
Chairman of the Crow Creek Sioux Tribe,
Fort Thompson, SD.

DEAR CHAIRMAN BIG EAGLE: Thank you for giving me a copy of the proposed federal legislation that requires the federal government to fulfill the commitments made to the Crow Creek Sioux Tribe in the Big Bend Act of 1962.

I wholeheartedly support this legislation and your efforts to develop Fort Thompson with the infrastructure and community facilities that the Crow Creek community should have received long ago. The method for funding in the bill is fair and I hope a majority of both houses of Congress and the President will realize the importance of passing this bill and signing it into law.

In several different ways, all of the various groups of people who live in South Dakota have not received the benefits promised when the great dams were built in the 1950s. The persistence of the members of the Crow Creek Sioux Tribe to right this wrong is worthy of high praise. Congratulations on creating an excellent proposal.

If there is anything I can do to help you, please let me know.

Sincerely,

WILLIAM J. JANKLOW.

ADDITIONAL COSPONSORS

S. 298

At the request of Mr. DOMENICI, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Wyoming [Mr. SIMPSON], the Senator from Arkansas [Mr. BUMPERS], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 298, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 684, A bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 770

At the request of Mr. DOLE, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 771

At the request of Mr. PRYOR, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 771, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 851

At the request of Mr. DORGAN, his name was withdrawn as a cosponsor of S. 851, a bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitary regulatory enforcement actions against small entities, and for other purposes.

S. 1086

At the request of Mr. DOLE, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1086, a bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes.

S. 1108

At the request of Mr. SMITH, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Arizona